

PLANNING COMMISSION MINUTES

November 15, 2000

CALL TO ORDER:

Chairman Dan Maks called the meeting to order at 7:02 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Dan Maks, Planning Commissioners Bob Barnard, Chuck Heckman, Brian Lynott and Vlad Voytilla. Planning Commissioners Sharon Dunham and Eric Johansen were excused.

Principal Planner Hal Bergsma, Senior Planner Barbara Fryer, AICP, Associate Planner Colin Cooper, Urban Forestry Supervisor Steve Brennan, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Maks, who presented the format for the meeting.

VISITORS:

Chairman Maks asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATIONS:

On question, staff indicated that there were no staff communications at this time.

OLD BUSINESS:

CONTINUANCES:

Chairman Maks opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1
2 **A. SHIPLEY 4-LOT SUBDIVISION**

3 *(Continued from October 18, 2000)*

4 The following land use applications have been submitted for a four-lot
5 subdivision at 5475 SW Main Avenue. The development proposal is located on
6 Assessor's Map 1S1-16DD, Tax Lot 1700. The site is zoned Urban Standard
7 Residential (R-5) and is approximately .69 acres.

8
9 **1. SB 2000-0013: SUBDIVISION PRELIMINARY PLAT**

10 The applicant requests approval of a subdivision in order to divide the
11 property into four lots to allow for the construction of three new homes
12 and to allow for the preservation of the existing home, and associated
13 street, landscape strip and water quality swale.

14
15 **2. FS 2000-0006; FLEXIBLE SETBACK**

16 The applicant also requests approval of a flexible setback for all lots in the
17 proposed subdivision (application SB 2000-0013), in order to reduce the
18 required 20-foot front yard setback to 10 feet and in order to reduce the
19 required 25-foot rear yard setback to 10 feet.

20
21 Associate Planner Colin Cooper introduced Steve Brennan, the City's Urban
22 Forestry Supervisor. He presented the Staff Report and discussed documentation
23 provided by the applicant since the Public Hearing was continued on October 18,
24 2000, including Exhibit Nos. 5 and 6, supplements to their narrative and a tree
25 inventory and assessment prepared by certified arborist. In addition, they have
26 revised their grading plans for the infill cul-de-sac and the flexible setbacks.
27 Concluding, he noted that staff recommends approval, with certain modified
28 Conditions of Approval.

29
30 Chairman Maks referred to page 9 of the Flexible Setback Staff Report, regarding
31 the living fence, and requested clarification of the location of this proposed living
32 fence.

33
34 Mr. Cooper advised Chairman Maks that the north property line joins the water
35 quality swale and the actual north property line of Tax Lot 1600, adding that he
36 had been attempting to clarify the language.

37
38 Chairman Maks referred to the number of the lot of the property adjacent to the
39 water quality swale, noting that it indicates Lot No. 1.

40
41 Mr. Cooper advised Chairman Maks that this should be Lot Nos. 1 and 2.

42
43 Chairman Maks referred to page 10 of the Flexible Setback Staff Report,
44 regarding the 38-inch Grand Fir tree, specifically Mr. Brennan's difference of
45 opinion from that of the applicant's arborist.

46

1 Mr. Brennan advised Chairman Maks that he concurs with Mr. Knapp's report,
2 specifically with the feasibility of attempting to preserve a Grand Fir tree within a
3 construction site. He noted that he is proposing that the house be positioned
4 further to the east on Lot 2, along that setback line, basically moving the structure
5 further from that Grand Fir tree, allowing sufficient room for preservation.
6

7 Chairman Maks questioned whether this is feasible with the 25-foot rear yard
8 setback.
9

10 Mr. Cooper indicated that the revised plan provides for a 25-foot rear yard
11 setback, observing that it would be necessary to increase the setback to 35-feet.
12

13 Chairman Maks referred to page 11 of the Flexible Setback Staff Report,
14 specifically Lot No. 3 and consideration for requiring a greater rear yard setback
15 versus providing a standard 20-year flexible setback, which was weighed against
16 the opportunity to provide additional off street parking on a driveway apron if the
17 20-foot front yard setback is provided. He questioned whether the feasibility of
18 15/15 had been discussed.
19

20 Mr. Cooper clarified that typically the Development Services Division's policy is
21 not to allow below 18-feet, 6-inches, which is the standard parking stall depth,
22 adding that 15 feet would leave a portion of a vehicle in the public right-of-way.
23 He expressed his opinion that staff needs to provide for the "shy" distance,
24 allowing room to walk around the front of the vehicle.
25

26 Chairman Maks observed that some people are unique and actually park their
27 vehicles in the garage. He questioned the size of the proposed arbor vitae on 36-
28 inch spacing.
29

30 Mr. Cooper suggested that with an evergreen, an appropriate height would be five
31 or six feet high. He noted that the species has not yet been proposed, suggesting
32 that this Condition of Approval be amended to provide for a 36-inch on center
33 six-foot arbor vitae, species to be approved by the City Arborist.
34

35 Noting that everyone concerned is pleased with the idea of a living fence,
36 Chairman Maks emphasized that the creation of this living fence would actually
37 involve some time.
38

39 On question, Mr. Cooper informed Commissioner Voytilla that a species of arbor
40 vitae would be selected to provide an actual screen.
41

42 Commissioner Heckman referred to page 7 of the Flexible Setback Staff Report,
43 requesting clarification of where the side yard terminates and how this is
44 determined.
45

1 Mr. Cooper advised Commissioner Heckman that the side yard extends to the
2 back corner line of the lot, noting that this is an irregular-shaped lot. He
3 mentioned that the rear lot line is actually that which is most distant from the front
4 line, adding that this transition always provides for an awkward definition when
5 attempting to address these types of details at the Planning Counter.

6
7 Commissioner Heckman suggested that if Lot 4 is granted the 10-yard rear
8 setback, the other spaces could be built into. He questioned whether the 42% lot
9 coverage is still in effect.

10
11 Mr. Cooper advised Commissioner Heckman the 42% lot coverage provision had
12 been eliminated.

13
14 Commissioner Heckman referred to page 13 of the Flexible Setback Staff Report,
15 specifically the ability to require a greater setback than is specified within the
16 Development Code.

17
18 Mr. Cooper informed Commissioner Heckman that this could be accomplished
19 under the discretion of the approval criteria within flexible setbacks that pertains
20 to the character of the building. Observing that the applicant is no longer
21 requesting a setback reduction for this particular lot, he noted that the
22 Commission might choose not to consider that particular Condition of Approval.

23
24 Commissioner Heckman questioned the possible effects on the Grand Fir tree in
25 the event of a future property owner who might put in grass and landscaping.

26
27 Mr. Brennan commented that obviously some landscaping practices, such as over
28 watering and grade changes, could have effects upon this tree.

29
30 Commissioner Heckman referred to Mr. Knapp's report, specifically a reference
31 to permeable asphalt and requested clarification of how long asphalt remains
32 permeable.

33
34 Mr. Brennan advised Commissioner Heckman that he is not an engineer and does
35 not feel qualified to respond to this question.

36
37 Mr. Cooper indicated that in a conversation with City Engineer Terry Waldele, he
38 had been informed that this particular substance is not currently included within
39 the City's Engineering Design Manuals pertaining to acceptable asphalt. He
40 pointed out that the Oregon Department of Transportation was responsible for the
41 permeable asphalt on Scholls Ferry Road. He noted that the City Engineer had
42 been very specific in indicating that he would be unwilling to accept permeable
43 asphalt at this time because of the amount of precipitation in this area. He
44 clarified that one of the goals is to avoid getting water into the sub-base of the
45 road so that the road would remain stable and not develop potholes.

46

1 Commissioner Heckman commented that arbor vitae are generally sold in gallon
2 sizes, rather than heights, specifically one, two, three or five gallon containers.
3 He mentioned that there are fifty different varieties of arbor vitae, which could
4 grow to different widths. He referred to the south side of what he referred to as
5 the street named "A", specifically whether street trees will be planted in that side
6 in Lot 1800.

7
8 Mr. Brennan advised Commissioner Heckman that staff would not recommend
9 planting any street trees within 25 feet of the Douglas Fir tree.

10
11 Commissioner Heckman observed that this would create a 50-foot span with no
12 trees. He suggested that the street trees could be eliminated and the arbor vitae
13 continued in this area.

14
15 Mr. Brennan reminded Commissioner Heckman that the City Code requires the
16 addition of street trees with any new development.

17
18 Mr. Cooper noted that at the last Public Hearing, the question had arisen
19 regarding the maintenance of that area, adding that he has advised the owners of
20 Tax Lot area of their responsibility for the maintenance of either trees or arbor
21 vitae, depending upon which is conditioned.

22
23 Commissioner Heckman referred to page 15 of the Subdivision Staff Report,
24 specifically facts and findings and the recommendation the required preservation
25 of three trees.

26
27 Mr. Cooper advised Commissioner Heckman that staff is no longer
28 recommending this requirement.

29
30 Commissioner Heckman referred to paragraph 7, page 18 of the Subdivision Staff
31 Report, requesting that it be amended, as follows: "Under a separate application
32 the applicant is requesting Flexible Setbacks for ~~the front and rear lots to be~~
33 ~~reduced from 20 and 25 feet respectively to 10 feet~~ **several of the proposed lots.**"
34 He referred to page 20, Condition of Approval No. 5, specifically details for the
35 temporary chain link fence, observing that some of the standard language is not
36 included.

37
38 Mr. Cooper informed Commissioner Heckman that he would be certain that this
39 language is included.

40
41 Chairman Maks emphasized that it is necessary to include language that provides
42 that nothing can be stored within that chain link fence.

43
44 Commissioner Heckman pointed out that this fence is not to be breached at any
45 time.

46

1 Chairman Maks expressed his disapproval of applicants who erect a fence around
2 a tree they are supposed to preserve and then store 50 bags of cement or piles of
3 brick within the area.

4
5 Commissioner Lynott referred to the Fir tree on Tax Lot 1800, specifically the
6 comment that the cul-de-sac would not affect the root base of this tree.

7
8 Mr. Brennan advised Commissioner Lynott that he concurs with the construction
9 methods proposed by the applicant, adding signs of these effects should become
10 visible within two to three years.

11
12 Commissioner Lynott referred to the bike path behind the lots, specifically
13 whether it is included within the City of Beaverton Bicycle Master Plan.

14
15 Mr. Cooper advised Commissioner Lynott that he believes that this bike path is
16 part of the master plan.

17
18 Commissioner Lynott noted that page 5 of the Subdivision Staff Report indicates
19 that SW Main Avenue is not identified on a bicycle master plan.

20
21 Mr. Cooper assured Commissioner Lynott that this path is part of the master plan.

22
23 Commissioner Voytilla mentioned the one-foot non-vehicular access strip,
24 requesting clarification of how this would be addressed.

25
26 Mr. Cooper advised Commissioner Voytilla that he believes it is necessary to
27 address this issue with an easement note on the plat.

28
29 Commissioner Voytilla referred to the Facilities Review Report, observing that it
30 still includes the language for the one-foot, and Mr. Cooper advised him that this
31 issue should be clarified within any motion to approve the application.

32
33 Commissioner Voytilla referred to Conditions of Approval No. 2 of the Flexible
34 Setback Staff Report, regarding the flexible setback greater than twenty feet for
35 the garage, as indicated by Commissioner Heckman and questioned whether a
36 note should be included on the plat as a part of this condition.

37
38 Mr. Cooper observed that Condition of Approval No. 4 of the Flexible Setback
39 Staff Report provides that the "...applicant shall record a deed covenant and a plat
40 note...". He pointed out that the applicant's surveyor had reminded him that in
41 the past year, Washington County has become very particular regarding which
42 plat notes they are willing to include on any plats and this would not be possible.

43
44 Commissioner Voytilla questioned whether they are also proposing CC&Rs.

45
46 Mr. Cooper suggested that a deed covenant might be a good solution.

1
2 Commissioner Voytilla referred to the Douglas Fir tree on Tax Lot 1800,
3 specifically the applicant's arborist's suggestion for the permeable asphalt, which
4 Engineering does not approve and questioned the impact of standard asphalt on
5 this tree.

6
7 Mr. Brennan stated that this would have a negative impact, recommending that
8 every possible precaution be taken to make certain

9
10 Commissioner Voytilla questioned the possibility of this particular tree falling
11 down, expressing his concern that this tree is located within the City right-of-way.

12
13 Assistant City Attorney Ted Naemura advised that this could possibly create a
14 potential liability for the City, adding that he has suggested language for a
15 Condition of Approval providing that the applicant actually assumes this risk.

16
17 Chairman Maks discussed his concerns with this issue, pointing out that because
18 of Metro's 80% density requirements, a developer is unable to create fewer lots,
19 adding that the Engineering Department does not approve of the permeable
20 asphalt. He mentioned that if, in the process of meeting density requirements and
21 installing the necessary streets, the tree is damaged, the developer becomes
22 responsible for this damage.

23
24 Commissioner Voytilla expressed his frustration with this particular condition,
25 observing that there is a high risk of losing this tree.

26
27 Commissioner Heckman questioned his rights regarding a neighbor's tree that
28 encroaches onto his property.

29
30 Mr. Cooper advised Commissioner Heckman that he would have any necessary
31 legal right to trim any portion of the tree that is infringing upon his property. He
32 cautioned that he could now be liable if a neighbor sues him as a civil action in
33 small claims court. if his action causes the demise of the tree, willful or not.

34
35 Mr. Naemura emphasized that this type of action actually provides for triple
36 damages.

37
38 Commissioner Heckman observed that a tree worth \$4,000 has the potential of
39 creating a liability of \$12,000.

40
41 Chairman Maks expressed his opinion that it would be safer not to condition this
42 tree at all, noting that if something happens, let the involved property owners sue
43 one another, without City involvement.

44
45 Mr. Naemura observed that there is now an awareness of the potential impact of
46 any decision regarding this tree on the neighboring property, emphasizing that this

1 is a discretionary decision and the Commissioners can not simply turn their back
2 on these unfavorable circumstances.

3

4 Chairman Maks disagreed, noting that in the subdivision process, grading plans
5 are carefully considered prior to adopting a plan that would destroy any Douglas
6 Fir trees on the property.

7

8 Mr. Naemura agreed that improper grading and engineering procedures would be
9 considered irresponsible and significantly increases the potential for liability.

10

11 Commissioner Heckman questioned the possibility of reconstructing this street
12 without the asphalt to allow for the movement of water and air over the root zone.

13

14 Mr. Brennan indicated that he is aware of several potential construction practices,
15 including a brick paver type tile that could accomplish this goal.

16

17 Commissioner Voytilla referred to Condition of Approval No. 11, which
18 specifically states that the removal must be based on root damage. He questioned
19 how this would be determined if the area is paved over with a City improvement.

20

21 Mr. Brennan stated that typically the foliage of the tree would indicate any
22 damage to the root structure, agreeing that it is possible that there could be
23 another cause.

24

25 Chairman Maks advised Mr. Brennan that the Planning Commission would
26 appreciate any comments or recommendations.

27

28 Chairman Maks expressed his appreciation to Mr. Cooper, who has accepted a
29 position with Oregon City. Observing that he is reluctant to see him leave, he
30 commended Mr. Cooper's professionalism, adding that he would truly miss him.

31

32 Agreeing that Mr. Cooper would be missed, Commissioner Heckman pointed out
33 that the City of Beaverton's loss is Oregon City's gain.

34

35 **APPLICANT:**

36

37 **SHELLEY HOLLY**, of Alpha Engineering, representing Mike Shipley, the
38 applicant, expressed appreciation to the staff and Planning Commission for their
39 efforts as well as the challenges they provided. She introduced Jodie Bienerth, an
40 Engineer for Alpha Engineering; Walt Knapp, an arborist; and Mike Shipley, the
41 applicant. She observed that in response to the recommendations of staff, the
42 plans have been tightened up significantly. She noted that the applicant is only
43 requesting flexible setbacks in the rear setbacks for Lot Nos. 3 and 4, adding that
44 the flexibility requested for Lot No. 4 is not as necessary as that requested for Lot
45 No. 3. She referred to paragraph 5 of page 10 of the Flexible Setbacks Staff
46 Report, specifically regarding the Grand Fir tree, observing that the applicant

1 feels that it is more feasible to attempt to preserve the Cedar trees in the front.
2 She referred to paragraph 2, page 11 of the Flexible Setbacks Staff Report, which
3 provides, as follows: "...original recommendation included a condition requiring
4 the applicant to increase the southern side yard setback by 5 feet for a total
5 setback of 10 feet. However, in consideration for allowing the applicant greater
6 flexibility and a recognition of the existing vegetative screen on Tax Lot 1900,
7 staff is no longer including this condition." She noted that the applicant would
8 like flexibility in this area and is proposing a standard five-foot setback on Lot
9 No. 3. She discussed the issue of the living fence and the arbor vitae along the
10 southern property line, pointing out that the applicant prefers the arbor vitae to the
11 street trees. She mentioned that Mr. Shipley has agreed to include within the deed
12 covenant that the care for the trees along the southern portion of the infill bulb
13 would be the responsibility of Lot Nos. 3 and 4, rather than Tax Lot 1800. She
14 referred to Condition of Approval No. 4 of the Flexible Setbacks Staff Report,
15 requesting that plat note be eliminated. She expressed concern with the
16 temporary chain link fence outside the root zones and explained that the applicant
17 feels that this fence would interfere with their construction techniques.

18
19 **WALT KNAPP**, introduced himself, noting that he is an Urban Forester/
20 Arborist, discussed the Conditions of Approval in the Flexible Setbacks Staff
21 Report, specifically Condition of Approval Nos. 5 and 6 regarding the temporary
22 chain link fence. He explained that once the house footprint has been established,
23 the developer would, in some instances, be slightly within the drip line. He
24 suggested that the chain link fence be installed in the specified location, moving it
25 at certain times under specified conditions, emphasizing that the City Arborist or
26 himself would be present at this time. He discussed several construction
27 techniques that would preserve or protect the roots, including utilization of a
28 grade beam foundation, if necessary, which would provide piers or pilings on
29 either side of the root zone or affected area, allowing the roots to actually persist
30 beneath the house. He pointed out that the roots would still receive moisture from
31 what he referred to is upwelling of moisture deep within the soil itself. He
32 discussed another technique, which he referred to as cantilevered construction, in
33 which the actual foundation would be further away from the tree, but the house
34 itself, somewhat closer to the tree, somewhat under the drip line, or at least within
35 that five-foot zone. He commented that these are flexibility issues that the
36 applicant feels are reasonable and should be included. He referred to Condition of
37 Approval No. 9 in the Flexible Setbacks Staff Report, regarding the manual
38 clearing of brush along the southern property line, pointing out that he does not
39 agree that pulling up the fine roots of these small trees and brush would be
40 disruptive. He discussed the provision that the applicant shall have a consulting
41 arborist and the City Arborist on site, questioning whether this would provide
42 more protection or less flexibility. He observed that scheduling would create a
43 problem, expressing his opinion that either professional on site during critical
44 times would be adequate protection for the area. Pointing out that the cul-de-sac
45 is being designed without excavation, at native or existing grade, he suggested the
46 installation of geo-textile cloth, followed by a layer of clean crushed rock, which

1 is permeable and allows the passage of air, and putting the asphalt on top of that
2 layer. He noted that the negative side of this procedure is that there would be
3 some compaction on the crushed rock, which would transfer into a portion of the
4 native soil underneath. He suggested raising the grade with air permeable
5 material, which should create a reasonably good environment for tree roots.
6 Concluding, he discussed his ideas for preservation of the individual trees and
7 species located within the development area and offered to respond to any
8 comments or questions.

9
10 Chairman Maks commented that it was obvious to both him and Commissioner
11 Heckman that no arborist was on site, emphasizing that the purpose of the Tree
12 Preservation Plan is to make certain that these trees are adequately protected.
13 Observing that he is aware of scheduling conflicts, he insisted that both the
14 applicant's arborist and the City's arborist must be on the site during critical times.

15
16 Mr. Knapp agreed that any plan must be followed through with to have a positive
17 effect.

18
19 Chairman Maks expressed his appreciation of the applicant's efforts in working
20 with staff and returning with a more realistic approach.

21
22 Commissioner Heckman questioned how Western Red Cedar trees react to root
23 zone impact or additional water.

24
25 Mr. Knapp advised Commissioner Heckman that Western Red Cedar trees do not
26 react well to a significant change in the water regime and it is not a good idea to
27 put a great deal of fill on their roots, which is typical of most conifers.

28
29 Commissioner Heckman expressed concern with the possibility of encroaching
30 into the root zone at certain times.

31
32 Mr. Knapp assured Commissioner Heckman that this would not involve any
33 unsupervised track hoe.

34
35 **JODIE BIENERTH**, of Alpha Engineering, discussed the proposed regrading,
36 observing that Mr. Knapp had basically recommended attempting to maintain the
37 existing grade as a sub-base for the road and place a road structural section on top
38 of that, with some modifications to the standard road structural section. She
39 referred to the geo-textile fabric and possible changes to the type of crushed rock
40 that would be utilized. She pointed out that currently the road is designed at
41 essentially one foot above the existing grade, observing that a standard structural
42 section in this area would probably be approximately one foot thick.

43
44 Commissioner Heckman noted that all rainfall in that area would be directed onto
45 that street because of the curb on that side.
46

1 Ms. Bienerth advised Commissioner Heckman that this is correct, adding that all
2 of the water would be directed toward the north side of the infill bulb, but would
3 not go onto Tax Lot 1800.

4
5 Commissioner Lynott referred to page 20 of the Subdivision Staff Report,
6 specifically the definition of a rolled curb.

7
8 Ms. Bienerth defined a roll curb as a curb that is slightly smaller than a standard
9 curb, minimizing the impact on root zones.

10
11 Mr. Cooper advised Commissioner Lynott that staff had explored this option with
12 the City Arborist to create something other than the typical monolithic curb,
13 which requires approximately a 16-inch amount of concrete ballast extending
14 straight down. He explained that the engineering design section for a rolled curb
15 is only 12 inches, adding that they had reviewed different ways to minimize the
16 construction impact on the root zone.

17
18 Chairman Maks observed that public testimony would be limited to three minutes.

19
20 **PUBLIC TESTIMONY:**

21
22 **FRANK KIRK**, who owns two homes in the area, one of which he resides in and
23 one of which is a rental, discussed the situation regarding the trees, specifically
24 the Fir tree on Tax Lot 1800. He observed that that this particular tree has been
25 topped and now has two or three new tops of considerable size, adding that his
26 experience has been that this makes a tree more susceptible to wind damage than
27 a tree with a single top. He discussed his concerns with potential problems with
28 extra parking, particularly within the street, emphasizing that extra parking is not
29 available in this area. He mentioned that the drawings indicate a well, with a
30 notation "to be capped", emphasizing that he does not find this acceptable. He
31 expressed concern that this well is subject to cave-in and should be filled before a
32 child, pet or car ends up there.

33
34 Commissioner Heckman referred to the well, specifically what Mr. Kirk would
35 fill it with.

36
37 Based upon his experience with the City of Beaverton's Operations Department,
38 Mr. Kirk advised Commissioner Heckman that in his opinion, this well should be
39 filled with crushed rock.

40
41 Commissioner Voytilla referred to page 14 of the Subdivision Staff Report,
42 specifically Facilities Review Condition of Approval No. 15, which states that the
43 existing wells are to be identified and abandoned by the governing authority and
44 questioned whether this could be addressed. He requested clarification of whether
45 Mr. Kirk owns Tax Lot 1800.

46

1 Mr. Kirk informed Commissioner Voytilla that he owns Tax Lots 1100 and 1101.

2
3 Commissioner Lynott referred to the tree on Tax Lot 1800, specifically when this
4 tree had been topped.

5
6 Mr. Kirk advised Commissioner Lynott that the entire grove of trees had been
7 topped approximately ten or twelve years ago, possibly longer, adding that the
8 limbs have turned up, creating an attractive top that is highly susceptible to wind.

9
10 **CAMMI MORAN**, requested clarification of whether pets could get through the
11 proposed living fence, specifically whether this would create a good barrier for
12 pets and children. She also requested information of how to address the Traffic
13 Master Plan.

14
15 Chairman Maks advised Ms. Moran that she should discuss the Traffic Master
16 Plan with the Traffic Commission, who is actually in the process reviewing the
17 Transportation System Plan at this time.

18
19 Mr. Cooper advised Ms. Moran to contact Debra Callendar, the Secretary of the
20 Traffic Commission, noting that they meet once a month.

21
22 Ms. Moran emphasized that her greatest concern is with her pets and children.

23
24 Chairman Maks suggested that Ms. Moran install her own fence.

25
26 Ms. Moran referred to the existing chain link fence, adding that she does not
27 know whether it belongs to Mr. Shipley and that she would like to have this fence.

28
29 Chairman Maks informed Ms. Moran that this issue could not be dealt with at this
30 time, suggesting that she locate her property line. He emphasized that the
31 proposed living fence would provide merely a visual screen, not an actual barrier.

32
33 Mr. Cooper reassured Ms. Moran that the applicant is proposing to retain existing
34 chain link fence, adding that the arbor vitae would provide an additional visual
35 screen.

36
37 Chairman Maks observed that although this fence now technically belongs to Mr.
38 Shipley, if the property is sold, the fence would then belong to someone else.

39
40 **JEFF GREER**, submitted written documentation and a souvenir picture of the
41 tree in question, commenting that they are greatly encouraged by all of the efforts
42 of the applicant and staff in terms of the conditions that had been provided by the
43 arborist. Observing that he is still deeply concerned with the affect upon their
44 trees and opposes this application, he emphasized that the Conditions of Approval
45 are necessary if the application is approved. He mentioned that he is still not

1 certain why the applicant has not considered moving the existing house to the left,
2 which would allow the infill bulb to be located in the middle.

3
4 **KARI GREER**, Ms. Greer read the letter she had prepared urging rejection of
5 plan for the Shipley 4-Lot Subdivision, referring to neighborhood incompatibility;
6 what she considers an unnecessary cul-de-sac bulb; potential yard maintenance
7 problems; and tree preservation.

8
9 Chairman Maks commended the Greers for their presentation, advising Ms. Greer
10 to get any necessary copies to the Planning Commissioners ahead of time in the
11 future.

12
13 Commissioner Heckman questioned where the 16-inch Cedar tree is located.

14
15 Ms. Greer advised Commissioner Heckman that while this 16-inch Cedar tree is
16 included on the tree inventory, she had been unable to identify this particular tree
17 on the map.

18
19 Commissioner Heckman commended the Greers for their presentation,
20 emphasizing that it is necessary to submit written materials ahead of time in order
21 to allow time for review by the Planning Commissioners.

22
23 **APPLICANT REBUTTAL:**

24
25 Ms. Holly addressed several concerns, specifically the intended retention of the
26 chain link fence; the Greers' suggestion to move the existing house, which would
27 be economically infeasible; alternatives to the infill bulb; and the maintenance of
28 the planting strip, which could be addressed through a deed covenant. She
29 discussed compatibility within the existing neighborhood, expressing her opinion
30 that the proposal is not incompatible with this area which currently exhibits a
31 great deal of variety.

32
33 Mr. Knapp offered to respond to any questions or comments regarding the trees.

34
35 Commissioner Heckman commented that staff had advised him that trees are
36 required.

37
38 Ms. Holly noted that both Mr. Cooper and Mr. Knapp had advised her that arbor
39 vitae would be more applicable to this area than the normal street trees.

40
41 Mr. Naemura questioned Mr. Knapp regarding materials received from the
42 Greers, specifically comments from the arborist. He referred to the bottom of the
43 page, beneath the signature line, requesting clarification of ISA certification.

44
45 Mr. Knapp advised Mr. Naemura that ISA is the International Society of
46 Arboriculture, which he described as a professional organization of arborists.

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Mr. Naemura requested comparison of the suggestion for a system of perforated pipes in a layer of gravel to methods in his own submittal.

Mr. Knapp clarified that the techniques are comparable, emphasizing the desire to maintain a permeable area under the entire root zone. He discussed the advisability of employing additional crushed rock, raising the profile, and maintaining the original grade and minimizing the amount of crushed rock and surfacing on top of this grade.

Mr. Cooper reassured Commissioner Heckman that arbor vitae are available at commercial nurseries. He referred to Condition of Approval No. 15 of the Facilities Review Conditions, observing that he had discussed the situation regarding the well with Project Engineer Jim Duggan, who had indicated the existence of a standard condition to address this issue.

Mr. Brennan commented that Item No. 9, specifying manual removal of the vegetation, questioning whether the concern is with construction equipment causing damages.

Chairman Maks referred to Condition of Approval No. 3 in the Flexible Setback Staff Report, regarding the evergreen living fence, specifically whether staff is comfortable with the proposed 6-foot arbor vitae planted 36 inches on center, species of arbor vitae to be approved by the City Arborist.

Mr. Cooper expressed his opinion that this proposal would work to achieve that specific goal.

Chairman Maks questioned whether Mr. Brennan has a problem with an additional condition that any movement of the temporary chain link fence for construction purposes shall be done only with the approval of the City Arborist.

Mr. Brennan indicated that this particular condition is acceptable.

Chairman Maks questioned whether a modification of that condition is necessary to additionally state that any additional procedures as identified by the City Arborist shall be followed, and Mr. Brennan expressed his agreement to this condition.

Commissioner Lynott referred to page 19 of the Subdivision Staff Report, requesting clarification of Mr. Cooper's specific comment, as follows: "helping preserving the neighborhood character".

Mr. Cooper expressed his opinion that this subdivision is keeping in the general character of the R-5 zone, adding that it is compatible with the area.

1 Mr. Naemura referred to the handout of November 15, 2000, observing that the
2 second line of the bold-faced text regarding holding the City harmless should
3 include the phrase "assume the risk of". He added that this language should be
4 included as a condition of the approval of the subdivision application.

5
6 Chairman Maks questioned the existence of a waiver of the 120-day requirement.

7
8 Mr. Cooper assured Chairman Maks that the applicant has signed an indefinite
9 waiver of the 120-day requirement.

10
11 The public portion of the Public Hearing was closed.

12
13 Chairman Maks expressed appreciation to the Greers, Mr. Kirk and Ms. Moran
14 for their testimony, and advised them that they live in an R-5 zone, which is
15 intended to include all types of 5,000 square foot homes. He commented that due
16 to Metro's development standards, their neighborhood would redevelop, at times,
17 in a different fashion, and hopefully, as compatibly as possible. He noted that this
18 is only the second truly infill development that has come before the Planning
19 Commission, emphasizing the difficulty in reaching appropriate decisions. He
20 expressed appreciation of comments regarding concerns regarding the well, the
21 trees and the cul-de-sac bulb, emphasizing that every effort would be made to
22 address these issues. Concluding, he expressed his approval of the applications
23 and mentioned that he has three pages of modifications to the Staff Report and
24 Conditions of Approval, adding that he would like to direct staff to return with
25 finalized Conditions of Approval with Facts and Findings for adoption.

26
27 Commissioner Heckman concurred with Chairman Maks comments, emphasizing
28 that he has a serious concerns with the tree on Tax Lot 1800, which Mr. Kirk has
29 indicated has been topped. He expressed his approval of both applications, under
30 certain conditions.

31
32 Commissioner Voytilla concurred with Chairman Maks and Commissioner
33 Heckman's comments, expressing concern with preservation of the tree on Tax
34 Lot 1800. He commented that he is in support of both applications, under certain
35 conditions and modifications.

36
37 Commissioner Lynott concurred with Chairman Maks, Commissioner Heckman
38 and Commissioner Voytilla, expressing concern with maximization of total
39 utilization of available land in lieu of extending the Urban Growth Boundary.
40 Observing that he is opposed to urban sprawl, sporadic growth or unplanned
41 development, he expressed his approval of both applications, which he feels have
42 addressed all applicable issues.

43
44 Mr. Cooper suggested the possibility of allowing the applicant do any necessary
45 word-smithing for submittal to the City Attorney, Development Services Manager
46 and City Arborist for review.

1 Observing that this involves one of his motives, Chairman Maks advised Mr.
2 Cooper that he would remain with the City of Beaverton and complete this
3 project.

4
5 Commissioner Voytilla pointed out that these particular trees are not included
6 within the City of Beaverton's Tree Preservation Program, expressing his
7 appreciation of Mr. Shipley efforts to preserve these trees.

8
9 Commissioner Heckman suggested that the issues be addressed and put together
10 into some readable format and shipped to staff for review.

11
12 Chairman Maks mentioned that he has consensus issues on the application itself,
13 rather than items that had been addressed during the Public Hearing.

14
15 On question by Chairman Maks, the Planning Commissioners concurred with an
16 additional Condition of Approval regarding monitoring, as suggested by the City
17 Arborist.

18
19 On question by Chairman Maks, the Planning Commissioners concurred with an
20 additional Condition of Approval requiring that any movement of the temporary
21 chain link fence must be approved by the City Arborist, including any additional
22 requirements proposed by the City Arborist.

23
24 On question by Chairman Maks, the Planning Commissioners concurred that on
25 Lot No. 3, the setback would be changed from 10-feet to 5-feet.

26
27 On question by Chairman Maks, the Planning Commissioners concurred with the
28 removal of the plat note from the Condition of Approval.

29
30 Commissioner Voytilla reminded Chairman Maks of his reference to Conditions,
31 Covenants and Recommendations (CC&Rs).

32
33 Chairman Maks discussed the applicant's statement that they would be in favor of
34 including the responsibility for the maintenance of the landscape area in a Deed
35 Restriction, questioning whether the Planning Commissioners would like this
36 included in the Conditions of Approval.

37
38 Commissioner Heckman commented that this maintenance issue could not be
39 enforced.

40
41 Chairman Maks questioned whether the Planning Commissioners would like to
42 include a Condition of Approval providing that the existing chain link fence
43 remains.

44
45 Commissioner Voytilla commented that the applicant's narrative addresses this
46 issue, adding that the existing chain link fence would remain.

Commissioner Heckman questioned the possibility of a future purchaser not wanting to retain the fence.

Chairman Maks commented that a Condition of Approval runs with land, and the Planning Commissioners concurred with the Condition of Approval stipulating that the existing chain link fence remain.

Chairman Maks requested that staff prepare the appropriate Land Use Orders approving these applications, to be approved by the City Attorney, who indicated that he is comfortable with this procedure.

Commissioner Heckman **MOVED** and Commissioner Voytilla **SECONDED** a motion to approve SB 2000-0013 -- Shipley 4-Lot Subdivision/Preliminary Plat, based upon the testimony, reports and exhibits presented during the Public Hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated October 18, 2000 and the Revised Staff Report dated November 10, 2000, including Conditions of Approval Nos. 1 through 7 in the Revised Staff Report, and including the additional Conditions of Approval identified through this Public Hearing, to be brought back in a Land Use Order prepared by staff based upon this Public Hearing, incorporating the conditions as submitted by the applicant and approved by the City Attorney with any necessary corrections to be added by staff.

Motion **CARRIED**, unanimously.

Commissioner Heckman **MOVED** and Commissioner Voytilla **SECONDED** a motion to approve FS 2000-0006 -- Shipley 4-Lot Subdivision Flexible Setbacks, based upon the testimony, reports and exhibits presented during the Public Hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated October 18, 2000 and the Revised Staff Report dated November 10, 2000, including Conditions of Approval Nos. 1 through 12 in the Revised Staff Report, and including the additional Conditions of Approval identified through this Public Hearing, to be brought back in a Land Use Order prepared by staff based upon this Public Hearing.

Motion **CARRIED**, unanimously.

9:30 p.m. – Commissioner Barnard arrived.

9:31 p.m. – 9:41 p.m. – break.

B. CPA99-00025 - COMPREHENSIVE PLAN LAND USE ELEMENT
(Continued from October 18, 2000)

As originally described, “The proposed amendment will replace the existing Land Use Element. The proposal intends to complete Metro requirements related to land

1 use requirements in local jurisdiction comprehensive plans. Both map and text
2 changes will be included in the proposal.” Metro Code Section 3.07.130 requires
3 local governments identify Design Type Boundaries. The proposed amendment
4 modifies the Land Use Element to more specifically identify the Metro Design
5 Types, to specify boundaries and to collate common policies among the design
6 types. Existing language will be modified to the extent that information can be
7 made more clear, concise or consistent with other sections of the same element. In
8 addition, the proposed amendment may:

- 9 • Remove references to the City’s housing program and relocate them to
10 the Housing/Economy Element;
- 11 • Remove references to the City’s Urban Services Area and relocate
12 them to the Public Services Element;
- 13 • Amend the Comprehensive Plan map to coincide with Land Use
14 Element text changes; and
- 15 • Place text provisions related to specific sub-areas of the City, such as
16 the Downtown and the Murray/Scholls Town Center, in separate
17 documents as addenda to the Comprehensive Plan.

18
19 Noting that due to the Planning Commissioners inability to make a quick decision
20 on a four-lot subdivision, the public has been waiting for a long time to testify on
21 the Comprehensive Land Use Element, Chairman Maks indicated that he intends
22 to accept any public testimony at this time.
23

24 **PUBLIC TESTIMONY:**

25
26 **STEVE MORASCH**, introduced himself as an attorney representing Matthias
27 Kememy, referred to copies of a letter he had submitted, requesting corridor
28 zoning for Mr. Kemeny's property. He noted that based on a discussion with
29 staff, they have decided to request an employment designation, rather than a
30 corridor designation, for this particular zone, which is currently zoned Campus
31 Industrial (CI).

32
33 Chairman Maks advised Mr. Morasch that this public hearing involves a
34 legislative action and is not concerned with any particular proposed development,
35 emphasizing that comments must be restricted to general, not specific, comments.
36

37 **MATTHIAS KEMENY**, commented that he has been attempting to develop a
38 particular property for quite some time, to the extent of having architects design
39 an office building, including double-deck parking, adding that this had been his
40 idea of the ideal development of this property. He pointed out that over the past
41 six years, he has not been able to attract an appropriate tenant to achieve this
42 particular goal, although he now has an agreed lease with a retail tenant with the
43 potential to provide employment for nearly 200 individuals.
44

1 Chairman Maks observed that while the existing zoning has not attracted tenants
2 for Mr. Kemeny's property, there are individuals interested in the property with
3 uses that could be utilized under the employment designation.
4

5 Mr. Kemeny noted that part of the issue involves a previously adopted ordinance
6 and issues that are not before the Planning Commission at this particular time. On
7 question, he advised Chairman Maks that he no longer desires the corridor
8 designation for his property, adding that he would prefer employment to industrial
9 designation.
10

11 **MATT GRADY**, introduced himself and **BARRY CAIN**, both of whom
12 represent Gramor Development, and referred to a letter submitted from Ty
13 Wyman regarding the plan designations for certain property. He discussed the
14 feasibility of the different plan designations.
15

16 **DONNA GROSSMAN**, **LESLIE ELLIOT**, **DEBBIE DEYMONAZ** and **DAN**
17 **DEYMONAZ**, testified in opposition to CPA 99-00025 -- Comprehensive Plan
18 Land Use Element
19

20 Mr. Deymonaz mentioned that their neighborhood is currently zoned residential/
21 agricultural, expressing concern with what type of coordination would occur with
22 the affected property owners prior to the adoption of this zoning. Observing that
23 his property includes a barn and that the Grossmans have chicken coops on their
24 property, he pointed out that these uses are not included within the R-5/R-7-type
25 zones, although they do fit in with the current residential/agricultural zoning. He
26 emphasized that they are concerned with the possibility of being required to
27 remove any of their existing structures because of any changes that might occur.
28 He discussed concerns with the density standards, noting that when they had
29 purchased their property they had hoped that they would only have one or two
30 houses around their property and that recent density changes indicate that they
31 could have anywhere from 4.5 to 8.7 units per acre. He expressed his opinion that
32 it is not maintaining the character of the neighborhood to be forced to locate up to
33 eight houses on an acre of property and expressed concern with the value of his
34 property.
35

36 Ms. Deymonaz observed that if the options for her neighborhood include R-5 and
37 R-7, she is totally opposed to the R-5 designation, questioning whether they have
38 any choice. She expressed concern with maintaining the character of the
39 neighborhood.
40

41 Ms. Elliott mentioned that part of their motivation for purchasing their property
42 was for the investment, observing that their property includes a historic house and
43 historic trees. She noted that the house is located pretty much in the middle of the
44 property, expressing concern with net acreage that would be calculated out if they
45 chose to subdivide their property. She discussed the potential of decreasing the
46 livability and the value of her home, adding that they would choose not to develop

1 if it meant the addition of too many units. She expressed her opinion that an R-10
2 designation would be more appropriate than the proposed R-5 or R-7.

3
4 Ms. Grossman described her search over ten years ago to locate a decent-sized
5 home on a decent-sized parcel of property, emphasizing that it had been a major
6 undertaking to find their home. Observing that she has three children, she
7 emphasized that she wanted space for the children and a garden, and pointed out
8 that the neighborhood really values the half-acre of open space. Commenting that
9 they had bought this property to utilize as a yard for the kids, she added that even
10 as a potential investment, they had never envisioned more than two homes, and
11 certainly not four or five, on this property.

12
13 Chairman Maks reminded Ms. Grossman that even if the land use designation
14 does change, the property owners would have an opportunity to request a zone
15 change.

16
17 On question, Ms. Deymonaz advised Chairman Maks that their attorney is busy in
18 Florida.

19
20 On question, Ms. Fryer advised Chairman Maks that staff anticipates eliminating
21 the residential/agricultural designation to allow development at either R-7 or R-5,
22 adding that staff intends to work with the property owners to determine which
23 designation would be most preferable. She pointed out that in an attempt to
24 increase density within the 20-year planning horizon, staff prefers not to utilize
25 the suggested R-10 zoning designation, which would not be in compliance with
26 that goal. She mentioned that it is likely that in the event of development, it
27 would be necessary to place three homes on the property or at least demonstrate
28 that three homes could be accommodated on that particular lot, whether or not
29 they intend to develop every lot at that particular time.

30
31 Chairman Maks discussed how to address this issue, questioning whether it is
32 feasible to temporarily change to an R-10 designation.

33
34 Ms. Fryer mentioned that a particular Comprehensive Plan policy states that when
35 redevelopment of a residential/agricultural designation occurs, its zone would be
36 to R-5 or R-7.

37
38 Chairman Maks pointed out that land is zoned residential/agricultural with the
39 intent that it would eventually be developed, emphasizing that it is a transitional
40 zone. On question, he advised Mr. Deymonaz that as a non-conforming use, if his
41 barn were to burn down, he would probably not be allowed to rebuild it. On
42 question, he advised Ms. Grossman that he is not certain whether she could
43 replace her chickens, if they were to die.

44
45 Ms. Fryer referred to Urban Service Area Objective No. E, under Section 3.10.1,
46 which states, as follows: "Areas proposed for residential agriculture (R/A) are

1 intended to promote the development and continuation of agricultural uses in
2 appropriate areas until needed for orderly expansion. Those parcels designated
3 R/A are generally those with active agricultural uses and greater than five acres.
4 Also, it is the intent to allow rezoning to Urban Standard densities upon
5 demonstration that all necessary public facilities are available."
6

7 Ms. Grossman referred to the Comprehensive Plan Amendment Criteria,
8 specifically Criterion No. 9, regarding the public interest, and questioning why, if
9 they have no plans to sell their property at this time, this is considered in the best
10 interest of the public.
11

12 Chairman Maks advised Ms. Grossman that while this action might not be in her
13 best interests, it is in the best interests of the region, from a legislative
14 perspective.
15

16 Ms. Grossman expressed her opinion that there is no point in changing the zoning
17 until such time as the property would be sold and developed.
18

19 Observing that ownership changes, Chairman Maks commented that this action is
20 in the best interest of the regional goals.
21

22 Commissioner Heckman emphasized that the City of Beaverton is also attempting
23 to plan for the future.
24

25 On question, Ms. Grossman advised Chairman Maks that the property owners
26 prefer R-7, if R-5 and R-7 are the only options available to them.
27

28 Ms. Fryer discussed the next step in this process, assuming this proposal is
29 approved and it is approved by the City Council. She noted that the five or six
30 proposals involved in the periodic review would remain in what she referred to as
31 a stasis state (a holding pattern), until they all arrive at the same place. At this
32 point, the City Attorney would prepare an Ordinance to adopt all of the
33 amendments as a package. At the request of Chairman Maks, she assured the
34 concerned property owners that tonight's action does not actually rezone their
35 property at this time.
36

37 On question, Chairman Maks advised the public that eventually the Planning
38 Commission would be responsible for determining either an R-5 or R-7
39 designation for this property, emphasizing that this has not yet been decided.
40

41 Ms. Fryer commented that staff's intention is to satisfy the individual property
42 owners as much as possible, pointing out that under the Urban Standard
43 designation, either R-5 or R-7 would be allowed.
44

45 Chairman Maks expressed concern with the possibility that this language would
46 bring him down a path against his intentions.

1
2 Mr. Deymonaz advised Chairman Maks that staff has offered to provide
3 information regarding the pros and cons of both R-5 and R-7 designations, adding
4 that the property owners had not been able to accomplish this on their own. He
5 noted that he is slightly confused, pointing out that he had been under the wrong
6 impression that Metro is requiring the City of Beaverton to take action.
7

8 Chairman Maks informed Mr. Deymonaz that at a later time, the City of
9 Beaverton would have to take some actions required by Metro, adding that the
10 timetable keeps shifting. He clarified that it is necessary to actually prove to
11 Metro that the City of Beaverton is able to accommodate a certain number of
12 people, both residentially and employment-wise, emphasizing that this must be
13 accomplished in a certain amount of time.
14

15 Commissioner Barnard pointed out that although the neighbors don't feel that any
16 of the proposed development fits within their neighborhood, the situation could be
17 completely different in eighty years.
18

19 **STAFF REPORT:**
20

21 Ms. Fryer responded to various comments, including those regarding the Kemeny
22 property and the request for an employment, rather than corridor designation. She
23 referred to Mr. Morasch's implication that staff might eventually change the
24 zoning on certain property from Campus Industrial (CI) to Light Industrial (LI) or
25 Industrial Park (IP), emphasizing that staff has no such intention at this time. She
26 mentioned that she does understand that there are concerns regarding the
27 industrial designation as applied and implemented through the request to Metro
28 for a Title 4 amendment. In response to Measure 7, Metro is considering
29 amendments to their requirements for compliance, although at this time it is not
30 certain how this will affect this particular proposal.
31

32 Ms. Fryer responded to comments from Gramor Development from Mr. Cain and
33 Mr. Grady, specifically the proposal to change a zone designation from Town
34 Center Sub-Regional to Corridor. She pointed out that this zone is actually
35 currently a Commercial Comprehensive Plan designation and that staff is
36 proposing to change this to the new Corridor designation. She discussed the
37 Planning Commission's decision for a two-map system, rather than a one-map or
38 three-map system. She noted that in order to implement the 2040 design types in
39 the Urban Growth Management Functional Plan and the 2040 Growth Concept
40 promulgated by Metro, it had been necessary to provide a seamless transition
41 from the 2040 Map and those design types and the City Map. In doing so, staff
42 had provided a Comprehensive Plan designation called Corridor and one called
43 Main Street, both of which accommodate all of the commercial zoning districts
44 that are not within a Mixed-Use area, with the exception of the Town Center Sub-
45 Regional. On question, she verified that there is a possibility of overlaying this
46 district with Town Center.

1 Chairman Maks requested clarification of why this is being done.

2
3 Ms. Fryer explained that staff is not recommending designating the area as Town
4 Center because the area north of Scholls Ferry Road and west of Murray
5 Boulevard does not really function in the capacity of a town center.

6
7 Principal Planner Hal Bergsma clarified that this area is changing from
8 Commercial, rather than Town Center Sub-Regional, to Corridor designation,
9 adding that the Town Center Sub-Regional zone remains on the property until
10 such time as a change is proposed to the zone map. He emphasized that this
11 would not change the status of any development or the use of property in the
12 foreseeable future.

13
14 Agreeing with Mr. Bergsma, Chairman Maks pointed out that he is concerned that
15 this language might lead him down a path he might not want to travel.

16
17 Commissioner Heckman questioned whether this property could never be
18 included in the Town Center because it is divided by the Corridor designation.

19
20 Ms. Fryer advised Commissioner Heckman that this is not necessarily the case,
21 adding that the key issue is that this area would not function as a Town Center.
22 She pointed out that if it is necessary to cross Scholls Ferry Boulevard or Murray
23 Boulevard to utilize the remaining portion of the Town Center, the area is not
24 functioning as a Town Center.

25
26 Commissioner Heckman pointed out that the Sub-Regional Property is currently
27 divided by two corridors and because residential density can not be accomplished
28 there, this area can never serve the capacity of a Town Center.

29
30 Ms. Fryer observed that because a floor area ratio (FAR) and a minimum density
31 had never been adopted on a particular property, it has not developed as a Town
32 Center. However, it could possibly redevelop at a density and in a fashion
33 consistent with a Town Center.

34
35 Ms. Fryer noted that her final comments relate to those individuals who testified
36 regarding their residential/agricultural properties, emphasizing that staff does
37 anticipate contacting individual property owners and working with them. She
38 referred to the barn, chicken coops and various uses that are currently allowed.
39 She noted that while they would not be considered permitted uses under R-5 or R-
40 7, these non-conforming uses would be allowed to remain in perpetuity and
41 expand up to the percentage allowed in the Development Code under non-
42 conformance.

43
44 Concluding, Ms. Fryer recommended approval of the proposal, including Exhibits
45 "A", "B" and "C"; Staff Reports dated August 2, 2000, and November 15, 2000;
46 and Staff Memorandum dated January 1, 2000, March 7, 2000, April 5, 2000,

1 April 19, 2000, May 15, 2000, May 24, 2000, June 14, 2000, June 21, 2000, July
2 26, 2000, August 23, 2000, September 13, 2000, September 20, 2000, October 18,
3 2000; and City Memorandum to Metro, dated September 20, 2000; and any
4 exhibits submitted through the proceedings thus far. She further recommended
5 that the Planning Commission incorporate by reference the Staff Report dated
6 October 1, 2000 for CPA 2000-0005 -- Economy Element with Regard to
7 Findings Related to Statewide Planning Goal 9.
8

9 At the request of Commissioner Barnard, Chairman Maks clarified that perpetuity
10 expanding up to the level allowed is 20%.
11

12 Commissioner Heckman mentioned the 11:00 p.m. rule for adjournment.
13

14 Ms. Fryer advised Commissioner Barnard that in the case of non-conforming use
15 of land, expansion would not be permitted; and that if it is a non-conforming use
16 of structure, expansion is not allowed, but if the structure is damaged, it could be
17 replaced and modified. If more than 50% of the structure has been destroyed,
18 however, the structure can not be replaced.
19

20 Requesting direction from his fellow Planning Commissioners, Chairman Maks
21 pointed out that there have been eleven Public Hearings regarding this issue and
22 he would like to get the application approved. He emphasized that he does not
23 want to adopt language that would send him down a path he doesn't want to go.
24

25 Commissioner Heckman **MOVED** and Commissioner Lynott **SECONDED** a
26 motion to suspend the rules and continue the meeting until 11:05 p.m.
27

28 Motion **CARRIED**, unanimously.
29

30 Commissioner Heckman expressed his opinion that Ms. Fryer has worked hard in
31 her efforts to prepare what he considers a well-developed document, expressing
32 his opinion that it is not actually possible to arrive at a document that covers
33 everything.
34

35 Chairman Maks emphasized that he would like to get this application adopted,
36 pointing out that revisions are possible at a later time.
37

38 Commissioner Voytilla agreed that it is necessary to move forward with this
39 application, expressing his concern with issues regarding the Gramor
40 Development.
41

42 Commissioner Lynott and Commissioner Barnard concurred with Chairman
43 Maks, Commissioner Heckman and Commissioner Voytilla, noting that they
44 would also like to conclude this proceeding.
45

1 **TY WYMAN**, introduced himself as an attorney representing Gramor
2 Development and emphasized how simple Gramor Development's proposed
3 amendment to this is. He explained that the amendment provides for inclusion of
4 the Town Center Sub-Regional within the Corridor designation and does not
5 contravene any Metro policy or overriding policy that has been discussed this
6 evening, expressing his opinion that this amendment simply increases flexibility
7 within the designation.

8
9 Commissioner Heckman questioned whether Gramor Development would be
10 satisfied if Town Center Sub-Regional were included within the Corridor plan
11 designation.

12
13 Mr. Wyman advised Commissioner Heckman that Gramor Development would
14 like Town Center Sub-Regional to be included as one of the eligible zones within
15 the Corridor plan designation.

16
17 Mr. Cain emphasized that this designation is exactly what Gramor Development
18 would like to occur.

19
20 Ms. Fryer mentioned what she considers a solution to the issue with Gramor
21 Development.

22
23 Chairman Maks passed gavel to Commissioner Voytilla.

24
25 Commissioner Maks **MOVED** and Commissioner Lynott **SECONDED** a motion
26 to suspend the rules and continue the meeting until 11:10 p.m.

27
28 Motion **CARRIED**, unanimously, with the exception of Commissioner Heckman,
29 who voted nay.

30
31 Ms. Fryer referred to the Comprehensive Plan and Zoning District Matrix on page
32 3-25, noting that there are two zones, including the low-density residential zone,
33 which has a footnote, as does the standard density zone. She pointed out that it
34 might be possible to add, under Corridor, the Town Center Sub-Regional Zoning
35 District as a footnote, indicating that expansion of the Town Center Sub-Regional
36 Zoning District is prohibited, or something to that effect. This would permit it to
37 continue on the existing properties but would not permit further expansion onto
38 other Corridor properties where it might not be compatible with the surrounding
39 neighborhood. She referred to standard density, allowing
40 Residential/Agricultural, indicating that the intent is that if a Residential/
41 Agricultural property were to be developed, it would automatically require a
42 rezone to either R-5 or R-7 designation.

43
44 Commissioner Maks **MOVED** and Commissioner Barnard **SECONDED** a
45 motion to continue CPA 99-00025 -- Comprehensive Plan Land Use Element, for
46 the sole purpose of and to hear information only on the last two items identified

1 by staff, in addition to the expansion of the CI zone in the area identified by a map
2 presented by staff this evening, to a date certain of November 29, 2000.

3
4 Motion **CARRIED**, unanimously.

5
6 **APPROVAL OF MINUTES:**

7
8 Commissioner Heckman **MOVED** and Commissioner Maks **SECONDED** a
9 motion that approval of the minutes of the meeting of October 18, 2000, be
10 continued until November 29, 2000.

11
12 Motion **CARRIED**, unanimously.

13
14 **MISCELLANEOUS BUSINESS:**

15
16 The meeting adjourned at 11:15 p.m.